

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ORR AUTO, INC.	§	
D/B/A ORR VOLKSWAGEN OF TEXARKANA	§	
	§	
V.	§	CASE NO. 5:24-CV-00029-RWS-JBB
	§	
AUTOPLEX EXTENDED SERVICES, LLC	§	
D/B/A MOTOR VEHICLE SERVICES	§	

ORDER

Before the Court is Plaintiff's Motion for Default Judgment. Docket No. 9. The above-captioned case was referred to United States Magistrate Judge Boone Baxter pursuant to 28 U.S.C. § 636.

On February 29, 2024, Plaintiff Orr Auto, Inc. d/b/a Orr Volkswagen of Texarkana filed a complaint against Autoplex Extended Services, LLC d/b/a Motor Vehicle Services, asserting claims for unfair competition and false designation of origin under the Lanham Act, 15 U.S.C. § 1125(a), as well as common law claims of unfair competition, trademark infringement, and unjust enrichment under Texas law. Docket No. 1. Plaintiff properly served Defendant but Defendant did not respond to the complaint by the required April 30, 2024 deadline. Docket Nos. 5, 9. The Clerk entered default as to Defendant (Docket No. 7) and the Magistrate Judge set a hearing for Plaintiff's Motion for Default Judgment. Docket Nos. 9, 11, 14.

Defendant received notice of the hearing but did not appear. *See* Docket Nos. 12, 14. On October 21, 2024 the Magistrate Judge entered a Report and Recommendation, recommending Plaintiff's motion for default judgment be granted. Docket No. 17. Finding good cause exists to enter default judgment against Defendant, the Magistrate Judge recommended the Court enter judgment in favor of Plaintiff, as to liability only, and enter the Order Granting Default Judgment


attached to Plaintiff's motion, reserving for a later trial the issues of damages, costs, exceptionality, and permanent injunction. *Id.* at 1–2, 14–15. To date, Defendant has failed to appear, plead, or otherwise defend this lawsuit and is in default.

Defendant received a copy of this Report on October 28, 2024 (Docket No. 18) but filed no objections. Because no objections have been received, Defendant is barred from *de novo* review by the District Court of the Magistrate Judge's findings, conclusions, and recommendations; and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203-RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in this case and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined the report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report and Recommendation of the Magistrate Judge (Docket No. 17) is **ADOPTED** as the opinion of the District Court. Contemporaneously with this Order, the Court is entering the Order Granting Default Judgment attached to Plaintiff's motion, reserving for a later trial the issues of damages, costs, exceptionality, and permanent injunction.

So ORDERED and SIGNED this 26th day of November, 2024.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE